

November 18, 2011

Mr. Pierre N. Regnier, Esq.  
Jardine, Logan & O'Brien, P.L.L.P.  
8519 Eagle Point Boulevard, Suite 100  
Lake Elmo, MN 55042

Dear Mr. Regnier:

Enclosed is a copy of the fully executed Stipulation & Consent Order approved by the Emergency Medical Services Regulatory Board (EMSRB) on November 17, 2011.

The Board's Stipulation and Order states in part:

1. Preston Ambulance shall undergo a Rural Ambulance Assessment within 30 days;
2. Preston Ambulance shall have sufficient staffing on a written on-call schedule to respond to all calls within their primary service area;
3. Preston Ambulance will continue to provide Board staff on a weekly basis copies of its written schedules for review;
4. Preston Ambulance will provide written on-call schedules to dispatch and its surrounding ambulance services on Sunday of each week;
5. Preston Ambulance may petition to have the conditions removed from its license following 12 months from the date of the Order.

If you have further questions, please contact Rose Olson (651.201.2804) at your convenience.

Sincerely,



Pamela Biladeau  
Executive Director

Cc: Karen Andrews, Assistant Attorney General

Enclosure: Stipulation and Consent Order

**BEFORE THE MINNESOTA  
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of the License of  
Preston Ambulance Service  
License No. 0199

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between Preston Ambulance Service ("Licensee") and the Complaint Review Panel ("Panel") of the Emergency Medical Services Regulatory Board ("Board") as follows:

1. During all times herein, Licensee has been and now is subject to the jurisdiction of the Board, from which it is licensed as an ambulance service in the State of Minnesota.
2. Licensee is represented by Pierre N. Regnier of Jardine, Logan & O'Brien, P.L.L.P. and Dwight D. Luhmann, Preston City Attorney. Karen B. Andrews, Assistant Attorney General, represents the Panel.

**FACTS**

3. For the purpose of this Stipulation, the Board may consider the following facts as true:
  - a. Licensee is a licensed ambulance service owned by the City of Preston.
  - b. On October 25, 2010, December 9, 2010, and April 20, 2011, the Board issued Correction Orders and Fines to Licensee based on its failure to provide staffing in accordance with Minnesota Statutes section 144E.101, subdivision 3 (continual service), and Minnesota Statutes section 144E.101, subdivision 11(a)(1) (personnel roster and files).
  - c. In the Fall of 2010, the City Council hired a part-time director to provide increased oversight of Licensee's service. In May 2011, the City Council determined a full-time

director was required to provide better coverage on weekdays and to increase recruitment and training efforts. The full-time director's employment began on June 6, 2011.

d. On June 9, 2011, Board staff reviewed Licensee's written on-call schedules from April 26, 2011 to June 9, 2011. This showed some continued gaps in scheduling of ambulance service personnel to ensure compliance with the statutes noted above. During this time period, a full written schedule was maintained for 83% of hours, rather than 100% of hours as required by law.

e. On June 20, 2011, the Board sent an inquiry letter to Licensee, requesting its response to the allegation that continued gaps in scheduling of ambulance service personnel remained. In its June 24, 2011 response, Licensee indicated that a full written schedule was maintained for over 97% of hours since June 6, 2011 and that Licensee was committed to achieving and maintaining a 100% full schedule. Licensee also described ongoing recruitment efforts and a willingness to undergo a Rural Ambulance Assessment.

f. On June 25, 2011, the Board received information that Licensee failed to respond to two requests for ambulance service on June 25, 2011. This information was verified by Board staff through the Fillmore County Sheriff's Department on June 27, 2011. Licensee was thus once again in noncompliance with Minnesota Statutes section 144E.101, subdivision 3 (continual service), and Minnesota Statutes section 144E.101, subdivision 11(a)(1) (personnel roster and files).

g. On June 28, 2011, Licensee was issued a Correction Order for noncompliance with the aforementioned statutes.

## STATUTES

4. The Panel concludes that the conduct described in paragraph 3. above constitutes a violation of Minnesota Statutes section 144E.19, subdivision 1 and justifies the action described in paragraph 5. below. Licensee agrees to enter into this Stipulation and Order for purposes of settlement.

## DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

### A. Conditions on License

5. The Board places the following **CONDITIONS** on Licensee's license:

a. Within 30 days of the date of this Stipulation and Order, Licensee shall undergo a Rural Ambulance Assessment by a panel determined by Board staff. Licensee shall be responsible for the cost of the assessment. Licensee shall comply with all reasonable recommendations by the assessment panel relating to staffing, scheduling, and providing continuous service.

b. Licensee shall have sufficient staffing upon a written on-call schedule to respond to all calls within Licensee's primary service area in accordance with Minnesota Statutes section 144E.101, subdivisions 3 and 11.

c. Licensee shall continue to provide to Board staff on a weekly basis copies of its written schedules for review.

d. Licensee shall provide written on-call schedules to dispatch and its surrounding ambulance services (Chatfield, Harmony, Lanesboro, and Spring Valley) on Sunday of each week. Additionally, Licensee shall immediately notify dispatch and the surrounding ambulance services of any additional inability to respond due to unanticipated staffing vacancies.

## B. Removal of Conditions

6. Licensee may petition to have the conditions removed from its license at any regularly scheduled Board meeting following 12 months from the date of the Order, provided Licensee's petition is received by the Board at least 30 days before the Board meeting. At the time of Licensee's petition, Licensee shall have the burden of proving by a preponderance of the evidence that Licensee's ambulance service can operate without conditions and has complied with the conditions above; however, Licensee's compliance with the conditions shall not create the presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this Order.

## **CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS**

7. It is Licensee's responsibility to ensure compliance with all conditions of this Stipulation and Order in a timely manner. Failure to comply with these conditions on or before their due date is a violation of this Stipulation and Order. If Licensee's failure to comply with paragraph 5.a. is caused by the Board or the assessment panel, such failure will not be deemed a violation of this Stipulation and Order. The information contained in the documentation required to be submitted to the Board pursuant to this Stipulation and Order is confidential and shall be submitted to the Board by United States mail, courier, or personal delivery only.

8. If Licensee fails to comply with or violates this Stipulation and Order, the Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

- a. The Panel shall schedule a hearing before the Board. At least 20 days

before the hearing, the Panel shall mail Licensee a notice of the violation(s) alleged by the Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Panel, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Panel and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Panel and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. Unless stated otherwise in this Stipulation and Order, the Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Panel not to seek discipline when it first learns of a violation will not waive the Panel's right to later seek discipline for that

violation, either alone or in combination with other violations, at any time while the license is in a conditional status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations, suspension, or revocation of Licensee's license.

f. Nothing herein shall limit the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 144E.19, subdivision 3, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

#### **ADDITIONAL INFORMATION**

9. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

10. Licensee waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

11. This Stipulation and Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

12. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

13. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

14. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

15. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

#### **DATA PRACTICES NOTICES**

16. Under the Minnesota Government Data Practices Act, this Stipulation and Order is classified as public data. Minnesota Statutes section 13.41, subdivision 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13. They shall not, if they are not already public documents, become public merely because they are referenced herein. Pursuant to the Health Insurance Portability and Accountability Act of 1996, the Board must report the



disciplinary action contained in this Stipulation and Order to the Healthcare Integrity and Protection Data Bank.

17. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

Dated: 10/4/11

Dated: 10-17-2011

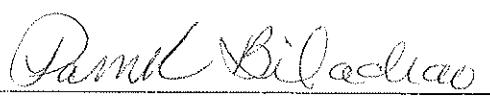
  
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PRESTON AMBULANCE SERVICE  
Licensee

  
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FOR THE PANEL

**ORDER**

Upon consideration of this stipulation and all the files, records, and proceedings herein,  
IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by  
the Board this 17 day of November, 2011.

MINNESOTA EMERGENCY MEDICAL  
SERVICES REGULATORY BOARD

By:   
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PAMELA BILADEAU  
Executive Director

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